

EXHIBIT 5

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. _____

MEINEKE CAR CARE CENTERS, INC.,)
)
Plaintiff,)
)
vs.)
)
IGOR DUGLAS,)
)
Defendant.)

AFFIDAVIT OF
GERALD ALLEN

GERALD ALLEN, being first duly sworn, deposes and says that:

1. I am the Manager of Priority Resales and Audit Manager for Meineke Car Care Centers, Inc. (hereinafter referred to as "Meineke"). I make this Affidavit on personal knowledge and based on my review of Meineke's business records.

2. As Meineke's Audit Manager, I am responsible for arranging audits and secret shopping events at franchised Meineke Car Care Centers and other automotive repair centers. I also am responsible for preparing, keeping and maintaining the business records associated with those audits and secret shopping events.

3. I arranged for Circle of Service, an independent secret shopping service, to conduct a secret shopping event at Seminole Auto Repair located at 1789 Capital Circle SE, Tallahassee, FL 23201 ("Seminole Auto Repair").

4. On December 10, 2009, a Circle of Service employee named Daryl Collins visited Seminole Auto Repair (hereinafter referred to as "Collins") with a 1999 Toyota Camry on behalf of Meineke and prepared a report (hereinafter referred to as "Report") regarding his visit. Collins also obtained a receipt (hereinafter referred to as

“Receipt”) for work performed on the 1999 Toyota Camry. True and correct copies of the Report and Receipt are attached hereto as **Exhibits A** and **B** respectively and are incorporated herein by reference.

5. The Report reflects that during the visit to Seminole Auto Repair on December 10, 2009 Seminole Auto Repair quoted a price of \$650 for replacement of both the front and rear strut towers and a price of \$450 to replace only the front struts.

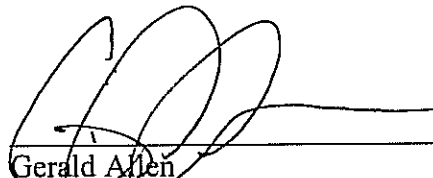
6. The Receipt reflects that during the visit to Seminole Auto Repair on December 10, 2009 Seminole Auto Repair performed an oil change on the 1999 Toyota Camry. “At MEINEKE, your satisfaction is very important to us.” is printed conspicuously towards the bottom The Receipt.

7. The third page of the Report reflects that during the visit to Seminole Auto Repair on December 10, 2009, Seminole Auto Repair acknowledged that it was operating Seminole Auto Repair although it also owned a Meineke franchise on Monroe Street.

8. Seminole Auto Repair is located within a six (6) mile radius of Meineke Car Care Center No. 2019 which is located at 1023 North Monroe Street, Tallahassee, FL. See attached map reflecting the driving distance between Seminole Auto Repair and Meineke Car Care Center No. 2019 attached as **Exhibit C**. The driving distance is 4.8 miles, therefore the radius is less than 6 miles.

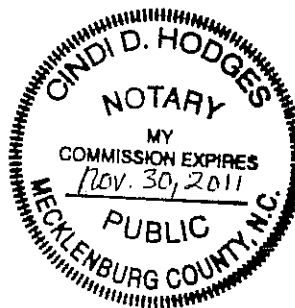
-----SIGNATURE TO FOLLOW-----

Dated this the 21 day of Jan. 2010.


Gerald Allen
Manager of Priority Resales/ Audits

Sworn to and subscribed to before me,
this 21 day of January, 2010

Cindi D. Hodges
Cindi D. Hodges, Notary Public
My Commission Expires: November 30, 2011





AT MEINEKE, YOU'RE ALWAYS THE DRIVER.™

Date: 12/10/2009

Time In 09:05 AM

Day Thursday

Time Out 09:47 AM

Vehicle Year 2009

Vehicle Make Toyota

Quote Amount \$650.00

Invoice Total \$23.60

Services Received Oil Change & estimate on struts

55.32% (78 of 141)

Location Number: Seminole

Location Address: 1789 Capital Circle SE
Tallahassee FL 32301

Meineke Core Services Survey - Exterior Appearance

83.33% (15 of 18)

- | | | | |
|----|---|-----|-----|
| 1. | # Of cars inside when you drove up? | 1 | |
| 2. | # Of cars waiting outside? | 3 | |
| 3. | Was the parking lot clean in appearance? | Yes | 3/3 |
| 4. | Were stripes painted in the parking lot to allot parking spaces? | No | 0/3 |
| 5. | If there was landscaping around the building, was it well maintained? | Yes | 3/3 |
| 6. | Was the signage in good condition? | Yes | 3/3 |
| 7. | If the main Meineke sign had a place to put a message, was one displayed? | NA | |
| | If yes, what does it say? | N/A | |
| 8. | Were any roadside signs or banners visible? | Yes | 3/3 |
| 9. | Overall, was the exterior appearance inviting? | Yes | 3/3 |

Comments (200 character minimum)

The only sign visible was 'Seminole Auto Repair' on the side of the building. I did not see any advertising signs with the Meineke logo on them.

The parking lot does not have marked spaces, and some cars were parked on the grassy area next to the building. Some landscaping in the form of manicured bushes was present in front of the location.

Meineke Core Services Survey - Greetings / Write - Up

28.57% (12 of 42)

- | | | | |
|-----|--|--------------------------------------|-----|
| | Name | No Nametag Present | |
| | Gender | Male | |
| | Age | 31 - 40 | |
| 1. | Were the store hours posted? | No | 0/3 |
| 2. | Upon arrival, how long before your presence was acknowledged? | 1 | |
| 3. | Greeting | "Hello sir. I'll be right with you." | |
| 4. | Was the greeting pleasant? | Yes | 3/3 |
| 5. | Was an inspection form completed for the vehicle? | No | 0/3 |
| 6. | Did you sign the inspection form? | No | 0/3 |
| 7. | Were you given a printed or written estimate? | No | 0/3 |
| 8. | Were you required to sign the estimate? | No | 0/3 |
| 9. | When you asked for service, did the associate explain the different levels of service options? | No | 0/3 |
| 10. | Without asking, were you told how long the service might take? | Yes | 3/3 |
| 11. | Did a Meineke employee drive your car onto and off of the lift? | Yes | 3/3 |
| 12. | Did you fully understand the need for the services provided? | Yes | 3/3 |

- | | | | |
|-----|--|----|-----|
| 13. | Were you shown the needed repairs? | No | 0/3 |
| 14. | Were the good parts pointed out to you? | No | 0/3 |
| 15. | Were you asked if your vehicle has an extended warranty? | No | 0/3 |
| 16. | Were you asked to provide your email address? | No | 0/3 |

Comments (200 character minimum)

I did not see any store hours posted when entering the bulding. I was acknowledged within 30 seconds of entering the door, though the employee was already speaking with another customer. I was told that the oil change and estimate for struts would take approximately 30 minutes.

Meineke Core Services Survey - Waiting Area 33.33% (3 of 9)

- | | | | |
|----|---|-----|-----|
| 1. | Was the waiting area clean and neat? | Yes | 3/3 |
| 2. | Were posters in the waiting room showing the various services performed at Meineke? | No | 0/3 |
| 3. | Did the shop have a menu board, with all services clearly displayed? | No | 0/3 |

Comments (200 character minimum)

The waiting area was clean and neat, but sparsely populated. The only marketing materials that I found were for 'BG' and outlined things like brakes, suspension and regular oil changes. None of the handouts or posters had the Meineke logo or branding anywhere on them. There was no menu board present listing all services available.

Meineke Core Services Survey - Staff 75.00% (18 of 24)

- | | | | |
|----|---|-----|-----|
| 1. | Was there any indication that the staff members were ASE certified (patches on staff clothing / certificate on wall in waiting room)? | No | 0/3 |
| 2. | Were all employees in uniforms (no street clothes)? | Yes | 3/3 |
| 3. | Did you see the crew use covers on the seat/floor/steering wheel while working on your car? | NA | |
| 4. | Did employees refrain from eating in the waiting room? | Yes | 3/3 |
| 5. | Did the employees refrain from smoking or using tobacco in the waiting room? | Yes | 3/3 |
| 6. | Was finished work shown to you in an understandable manner? | No | 0/3 |
| 7. | Were employees friendly and courteous at all times? | Yes | 3/3 |
| 8. | Were the employees professional and efficient in delivering the services? | Yes | 3/3 |
| 9. | Did the employees look neatly groomed and professional? | Yes | 3/3 |

Comments (200 character minimum)

All employees were wearing nondescript blue coveralls. I did not see any ASE patches on their clothing. I did not see the employees working on my car, as the waiting room seating area is not within direct sight of the garage. No employees were seen smoking or eating. All employees were courteous and friendly, with a professional demeanor. All employees were neatly groomed.

Meineke Core Services Survey - Ring Out 66.67% (18 of 27)

Name Same as Greeting - No
Nametag

Gender Male

Age 31 - 40

- | | | | |
|----|--|----------|-----|
| 1. | Was the counter area neat and orderly? | Yes | 3/3 |
| 2. | Were you given a receipt/invoice? | Yes | 3/3 |
| 3. | Was the warranty shown on the receipt? | No | 0/3 |
| 4. | Please indicate if the receipt/invoice was generated manually or by computer: | Computer | |
| 5. | If the invoice was manual, were all four copies intact and free of obstruction when written? | NA | |
| 6. | Was the payment transaction handled promptly and accurately? | Yes | 3/3 |
| 7. | Did the employee thank you for choosing Meineke and ask you to return? | Yes | 3/3 |
| 8. | If your car was not visible from the check out area, were you directed to your car? | NA | |
| 9. | If you had a specific question, was it answered satisfactorily? | Yes | 3/3 |

- | | | | |
|-----|--|-----|-----|
| 10. | Were you made aware of any service policies? | No | 0/3 |
| 11. | Was the warranty fully explained? | No | 0/3 |
| 12. | After paying for your services in CASH were you offered a receipt? | Yes | 3/3 |

Comments (200 character minimum)

The counter area was neat and ordely, and a receipt was printed from a computer promptly when I approached the desk. Though the employee had indicated earlier in our conversation that they would list additional services that my vehicle needed, (my car needs a new drive belt, and the employee mentioned that there are some oil leaks present and that both struts need replacement), none of these things were indicated on my receipt. The employee did thank me for coming in and asked me to come back to have the other services completed. The employee mentioned that they also own a Meineke location on Monroe street, but that they have opened this independent shop due to what they described as excessively high franchise fees.

Meineke Core Services Survey - Overall

57.14% (12 of 21)

- | | | | |
|----|---|---------------------------|-----|
| 1. | Were you comfortable in the way you were addressed and spoken to? | Yes | 3/3 |
| 2. | Was the work completed in the time frame promised (within 15 minutes)? | Yes | 3/3 |
| 3. | During your visit, were you VERBALLY informed that Meineke has a private label credit card? | No | 0/3 |
| 4. | How would you describe the employees' demeanor? | Good natured and friendly | |
| 5. | During your visit, was there any reason for you to feel uncomfortable about the staff you interacted with or question the honesty of your payment transaction?
If so, explain here.
N/A | No | 3/3 |
| 6. | Would you refer a friend or family member to Meineke? | Yes | 3/3 |
| 7. | Based upon your experience, would you return to Meineke for service?
...If not, explain here: | No | 0/3 |

Though the employee had indicated earlier in our conversation that they would list additional services that my vehicle needed (my car needs a new drive belt, and the employee mentioned that there are some oil leaks present and that both struts need replacement), none of these things were indicated on my receipt. It would have been helpful to have that in writing for me so I would return to Meineke for the service.

- | | | | |
|----|---|----|-----|
| 8. | Overall, were you satisfied with the service? | No | 0/3 |
|----|---|----|-----|

Comments (200 character minimum)

The oil change was completed promptly, and the employee did mention several things that my vehicle needs done to it as required work. However, the employee indicated that estimates would be provided on my receipt, but none were provided. I was quoted \$650 for both the front and rear struts/strut towers to be replaced or \$450 for the front only. I was quoted \$80 to have the drive belt replaced, and \$450 to have the timing belt and water pump replaced. I would not return because I was told these quotes would be printed out for me and they were not so I would be afraid to return without any proof of the quoted prices.

You must scan your invoice and upload to this evaluation. It must be uploaded in a JPEG or GIF format. If your scanner is not able to provide the document in that format then you should take a digital picture of the invoice and upload the digital picture.

 20091210
SeminoleAutoRecpt.JPG



AT MEINEKE, YOU'RE ALWAYS THE DRIVER.™

Date: 12/10/2009

Day Thursday

Time In 09:05 AM

Time Out 09:47 AM

Vehicle Year 2009

Vehicle
Make Toyota

Quote
Amount \$650.00

Invoice Total \$23.60

Services
Received Oil Change &
estimate on
struts

55.32% (78 of 141)

Location
Number: Seminole

Location Address: 1789 Capital Circle SE
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| 1. | # Of cars inside when you drove up? | 1 | |
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| 4. | Were stripes painted in the parking lot to allot parking spaces? | No | 0/3 |
| 5. | If there was landscaping around the building, was it well maintained? | Yes | 3/3 |
| 6. | Was the signage in good condition? | Yes | 3/3 |
| 7. | If the main Meineke sign had a place to put a message, was one displayed? | NA | |
| | If yes, what does it say? | N/A | |
| 8. | Were any roadside signs or banners visible? | Yes | 3/3 |
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Comments (200 character minimum)

The only sign visible was 'Seminole Auto Repair' on the side of the building. I did not see any advertising signs with the Meineke logo on them.

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28.57% (12 of 42)

- | | | |
|--------|--|--------------------------------------|
| Name | No Nametag Present | |
| Gender | Male | |
| Age | 31 - 40 | |
| 1. | Were the store hours posted? | No 0/3 |
| 2. | Upon arrival, how long before your presence was acknowledged? | 1 |
| 3. | Greeting | "Hello sir. I'll be right with you." |
| 4. | Was the greeting pleasant? | Yes 3/3 |
| 5. | Was an inspection form completed for the vehicle? | No 0/3 |
| 6. | Did you sign the inspection form? | No 0/3 |
| 7. | Were you given a printed or written estimate? | No 0/3 |
| 8. | Were you required to sign the estimate? | No 0/3 |
| 9. | When you asked for service, did the associate explain the different levels of service options? | No 0/3 |
| 10. | Without asking, were you told how long the service might take? | Yes 3/3 |
| 11. | Did a Meineke employee drive your car onto and off of the lift? | Yes 3/3 |
| 12. | Did you fully understand the need for the services provided? | Yes 3/3 |

13.	Were you shown the needed repairs?	No	0/3
14.	Were the good parts pointed out to you?	No	0/3
15.	Were you asked if your vehicle has an extended warranty?	No	0/3
16.	Were you asked to provide your email address?	No	0/3

Comments (200 character minimum)

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2.	Were posters in the waiting room showing the various services performed at Meineke?	No	0/3
3.	Did the shop have a menu board, with all services clearly displayed?	No	0/3

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2.	Were all employees in uniforms (no street clothes)?	Yes	3/3
3.	Did you see the crew use covers on the seat/floor/steering wheel while working on your car?	NA	
4.	Did employees refrain from eating in the waiting room?	Yes	3/3
5.	Did the employees refrain from smoking or using tobacco in the waiting room?	Yes	3/3
6.	Was finished work shown to you in an understandable manner?	No	0/3
7.	Were employees friendly and courteous at all times?	Yes	3/3
8.	Were the employees professional and efficient in delivering the services?	Yes	3/3
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	Name	Same as Greeting - No Nametag	
	Gender	Male	
	Age	31 - 40	
1.	Was the counter area neat and orderly?	Yes	3/3
2.	Were you given a receipt/invoice?	Yes	3/3
3.	Was the warranty shown on the receipt?	No	0/3
4.	Please indicate if the receipt/invoice was generated manually or by computer:	Computer	
5.	If the invoice was manual, were all four copies intact and free of obstruction when written?	NA	
6.	Was the payment transaction handled promptly and accurately?	Yes	3/3
7.	Did the employee thank you for choosing Meineke and ask you to return?	Yes	3/3
8.	If your car was not visible from the check out area, were you directed to your car?	NA	
9.	If you had a specific question, was it answered satisfactorily?	Yes	3/3

- | | | | |
|-----|--|-----|-----|
| 10. | Were you made aware of any service policies? | No | 0/3 |
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Meineke Core Services Survey - Overall

57.14% (12 of 21)

- | | | | |
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| 2. | Was the work completed in the time frame promised (within 15 minutes)? | Yes | 3/3 |
| 3. | During your visit, were you VERBALLY informed that Meineke has a private label credit card? | No | 0/3 |
| 4. | How would you describe the employees' demeanor? | Good natured and friendly | |
| 5. | During your visit, was there any reason for you to feel uncomfortable about the staff you interacted with or question the honesty of your payment transaction? | No | 3/3 |
| | If so, explain here. | | |
| | N/A | | |
| 6. | Would you refer a friend or family member to Meineke? | Yes | 3/3 |
| 7. | Based upon your experience, would you return to Meineke for service? | No | 0/3 |

...If not, explain here:

Though the employee had indicated earlier in our conversation that they would list additional services that my vehicle needed (my car needs a new drive belt, and the employee mentioned that there are some oil leaks present and that both struts need replacement), none of these things were indicated on my receipt. It would have been helpful to have that in writing for me so I would return to Meineke for the service.

- | | | | |
|----|---|----|-----|
| 8. | Overall, were you satisfied with the service? | No | 0/3 |
|----|---|----|-----|

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You must scan your invoice and upload to this evaluation. It must be uploaded in a JPEG or GIF format. If your scanner is not able to provide the document in that format then you should take a digital picture of the invoice and upload the digital picture.

 20091210
SeminoleAutoRecpt.JPG

Customer Copy - White Shop Copy - Yellow

SEMINOLE AUTO REPAIR MV#79242 #2019

Invoice Number: 3767

1789 Capital Cr. SE.
TALLAHASSEE, FL 32301
(850)561-0015

Invoice Date: 12-10-09
Estimate ID: 005907
Invoice Code: 50485H50343P5768

SOLD TO:

LINDA COLLINS
7602 WHITE FENCE LN
TALLAHASSEE, FL 32311 (850) 671-3674

Vehicle 1999 TOYOTA CAMRY Odometer 164,450 Tag FL F950VZ Vin

Tech BGG Writer *** Ad Lead WALK IN

Quantity	Item	Description	Warranty	MAP	A/D	Unit Price	Total
FLUID&FLTR							
1.00	MISCPART	5 QUARTS OIL/FILTER		A	A	10.00	10.00
1.00	LABOR	BASIC OIL CHANGE SERVICES		A	A	9.95	9.95
	MEMO	CHECK WIPER BLADES/WASHER					
	MEMO	CHECK EXTERIOR LIGHTS/LENS					
	MEMO	INSPECT BELTS/HOSES					
	MEMO	CHECK AIR FILTER					
	MEMO	CHECK WIPER/COOLANT FLUIDS					
	MEMO	CHECK TIRE CONDITION & ADJUST PRESSURE					
	MEMO	INSPECT EXHAUST SYSTEM					
Job Total:							19.95
	MEMO	COURTESY INSPECTION PERFORMED					

We want to thank you for your patronage. At SEMINOLE, your satisfaction is very important to us.
FL 3767 12/10/09 4141

Customer Tax 1.00

PAYMENT RECEIPT

Amount Due	Amount Received	Amount	21.00
Customer Service	Amount Received	Amount	21.00
Customer Service	Amount Received	Amount	21.00
Customer Service	Amount Received	Amount	21.00
Customer Service	Amount Received	Amount	21.00
Customer Service	Amount Received	Amount	21.00
Customer Service	Amount Received	Amount	21.00
Customer Service	Amount Received	Amount	21.00
Customer Service	Amount Received	Amount	21.00
Customer Service	Amount Received	Amount	21.00

Shop Supplies	2.00
Total Parts	10.00
Total Labor	9.95
Sub Total	21.95
Tax	1.00
Total Due	\$22.95

EXHIBIT B

Google maps

Directions to 1023 N Monroe St, Tallahassee,
FL 32303
4.8 mi – about 9 mins

Save trees. Go green!

Download Google Maps on your
phone at google.com/gmm

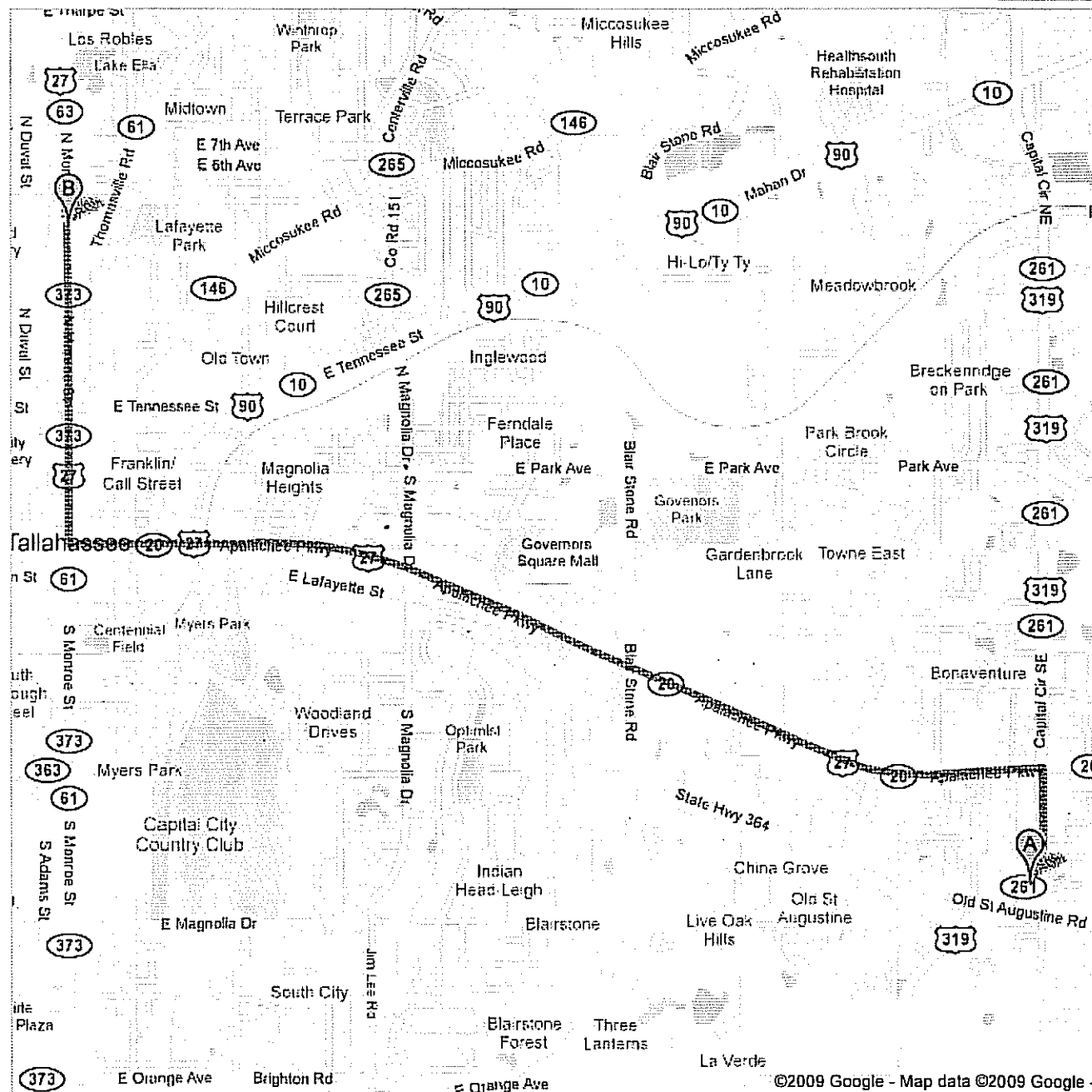






EXHIBIT C

 1789 Capital Cir SE, Tallahassee, FL 32301

-
- | | |
|--|---------------------------|
| 1. Head northeast on Capital Cir SE toward Adkins Forest Ln | go 0.4 mi
total 0.4 mi |
|  2. Turn left at Apalachee Pkwy
About 7 mins | go 3.4 mi
total 3.8 mi |
|  3. Turn right at S Monroe St
Destination will be on the right
About 2 mins | go 1.1 mi
total 4.8 mi |

 1023 N Monroe St, Tallahassee, FL 32303

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Map data ©2009, Google

Directions weren't right? Please find your route on maps.google.com and click "Report a problem" at the bottom left.

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